

# HOUSE BILL REPORT

## SHB 3016

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### As Amended by the Senate

**Title:** An act relating to updating provisions concerning the modification, review, and adjustment of child support orders to improve access to justice and to ensure compliance with federal requirements.

**Brief Description:** Updating provisions concerning the modification, review, and adjustment of child support orders to improve access to justice and to ensure compliance with federal requirements.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representative Pedersen; by request of Department of Social and Health Services).

#### **Brief History:**

##### **Committee Activity:**

Judiciary: 1/28/10, 2/1/10 [DPS].

##### **Floor Activity:**

Passed House: 2/10/10, 96-0.

Senate Amended.

Passed Senate: 3/5/10, 48-0.

#### **Brief Summary of Substitute Bill**

- Allows the Division of Child Support of the Department of Social and Health Services to file an action to modify or adjust child support orders for public assistance and non-assistance cases when certain conditions are met.
- Requires the court to allow parties and witnesses to testify by telephone or other electronic means in child support modification proceedings, unless good cause is shown.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Kelley, Kirby, Ormsby, Roberts and Ross.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Trudes Tango (786-7384).

**Background:**

The Division of Child Support (DCS) of the Department of Social and Health Services provides services to establish, modify, and collect child support. The DCS must provide services if a family is receiving Temporary Assistance to Needy Families (assistance). The parent receiving assistance assigns his or her right to child support to the DCS as reimbursement for the assistance. In those cases, the DCS may enforce a child support order previously established by the court or establish an order administratively. If the DCS is enforcing an order established by the court, the court generally retains jurisdiction to modify that support order. Except under certain circumstances, a child support order may be modified only upon a showing of a substantial change of circumstances.

In cases where assistance is being paid for the child, the DCS may file an action to modify a child support order if the support order is 25 percent or more below the appropriate support amount established in the standard calculation, and the reasons for deviation from that amount are not set forth in findings.

**Summary of Substitute Bill:**

The DCS may file an action to modify or adjust a child support order if assistance is being paid for the child and the order is at least 25 percent below or above the standard calculation. In non-assistance cases, the DCS may file an action to modify or adjust an order when it meets the 25 percent threshold requirement and services have been requested by another state or jurisdiction or by a party to the action. The DCS may also seek to modify or adjust a child support order at the intervals required by federal law, if the 25 percent threshold is met and the case meets the DCS review criteria.

If testimony other than an affidavit is required in any modification proceeding, the court must permit a party or witness to testify by telephone or other electronic means, unless good cause is shown.

**EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment clarifies when the Department of Social and Health Services (DSHS) may file an action to modify or adjust a child support order in a nonassistance case without a showing of a substantial change of circumstances. The language allowing the DSHS to file an action to modify or adjust a child support order “at intervals required by federal law” is removed. The DSHS may file an action to modify or adjust an order in nonassistance cases if the case meets the DSHS’s review criteria, the order is 25% below or above the standard calculation, and a party to the order or another jurisdiction has requested review. In addition, if a party to the order requests a review, the DSHS may file an action to modify or adjust an order in nonassistance cases under the same circumstances that a private party may seek to modify or adjust a child support order. The Senate amendment also re-organizes the statute for clarity.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill simply clarifies the DCS standing in non-assistance cases. The DCS authority to proceed in non-assistance cases is conditioned on a request from a party to the order. The bill is also in response to feedback the DCS has received from parents who want to be able to testify by telephone at court hearings. Under the Uniform Interstate Family Support Act, testimony by telephone is already allowed so this bill simply extends the provision to Washington parents. The bill also updates the statute to bring it in compliance with federal law. The statute implies that the DCS can only seek a modification if the order is below the standard calculation. The DCS must seek a modification if the order goes up or down. The DCS seeks fair and appropriate orders. The federal law requires states to have a reasonable, quantifiable formula to determine if the DCS will seek modification in all cases. The federal government does not specify whether the formula must be in statute or rule.

(Opposed) None.

**Persons Testifying:** Representative Pedersen, prime sponsor; and David Stillman, Division of Child Support of Department of Social and Health Services.

**Persons Signed In To Testify But Not Testifying:** None.